

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
01 DCH 2



THE NORTH CAROLINA STATE BAR,
Plaintiff

v.

WILLIAM EUGENE BUTNER, Attorney
Defendant

ANSWER

That defendant, answering the complaint of the plaintiff, says:

1. That the allegations contained in paragraph one of the complaint are admitted.
2. That the allegations contained in paragraph two of the complaint are admitted.
3. That the allegations contained in paragraph three of the complaint are admitted.
4. That the allegations contained in paragraph four of the complaint are admitted.
5. It is admitted that the offenses of which Butner is convicted are criminal offenses, the remaining allegations of paragraph five are untrue and denied.

For a further answer and defense, the defendant says:

I.

That the judgment against the defendant has been appealed to the Fourth Circuit Court of Appeals and that Judge Richard L. Vorhees has entered an order staying this judgment pending a ruling by the Fourth Circuit.

II.

The charges against the defendant arose out of a 1992 Bankruptcy Proceeding. A former client and friend gave misleading statements to the Trustee. These statements were given to divert attention from his theft, embezzlement and bankruptcy fraud. That as an Attorney, the defendant was precluded, at the time of the trial, by antiquated rules of ethics from testifying as to the perjury, embezzlement, and theft by a former client.

The Judge, Trustee, Trustee's Attorneys, Internal Revenue and the F.B.I. became aware of the theft, embezzlement and bankruptcy fraud committed by this person. Upon information and belief, this information was used to solicit perjury. The Bankruptcy Judge seized on information given ex parte and chose to pursue the defendant rather than attempt to recover the assets of the bankrupt estate. The entire estate of the bankrupt and assets wrongfully seized have been exhausted as administrative expenses in the many court proceedings against the defendant and his wife. That subornation of perjury is a crime under any circumstances, and no one is immune.

III.

Even if all alleged by the government were true, William E. Butner has committed no crime, nor violated any rules of ethics as an Attorney. That the charges against the defendant are the result of an overly zealous bankruptcy judge who has exhibited a total disregard for the rights of the citizens of the State of North Carolina. Either through ignorance of the law or his status as a Federal Bankruptcy Judge, he believes that the supremacy powers of the U.S. Constitution allows him to totally disregard both the Constitution and laws of the State of North Carolina.

IV.

That the defendant has openly criticized some of the Bankruptcy Judges in the Western District of North Carolina for arrogance and conduct violating rules of Judicial Ethics. That this criticism has caused the defendant to have been insulted, harassed, and prosecuted by the Bankruptcy Court, the Federal Bureau of Investigation, the Internal Revenue and the U.S. Attorney.

V.

That the defendant was ultimately tried in May, 1999, on nine separate counts of bankruptcy fraud after many attempts by the U.S. Attorneys to have the defendant to "just plead guilty to something". The defendant was convicted of two counts, the other seven were dismissed by the trial judge. A motion to set aside the verdict as being contrary to the evidence was not ruled on until November, 1999, and the defendant was not sentenced until November, 2000.

VI.

That any action by the State Bar against the defendant at this time would result in irreparable harm to the defendant and his family. That the many legal proceedings over the past eight years by the Bankruptcy and District Courts has left the defendant and his wife without assets and heavily indebted .

Wherefore, the defendant having fully answered the complaint of the plaintiff, prays that the Commission take no action pending a ruling by the U.S. Fourth Circuit Court of Appeals and all legal remedies afforded the defendant have been exhausted.

This the 6th day of April, 2001.



William E. Butner
PO Box 2323
Hickory, NC 28603
(828) 322-3130

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Answer was served upon the Plaintiff and its attorney, by depositing a copy thereof in the U.S. Mail addressed as follows:

A. Root Edmonson
PO Box 25908
Raleigh, NC 27611-5908

Calvin E. Murphy
PO Box 25908
Raleigh, NC 27611-5908

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CRIMINAL DOCKET NO. 5:98CR215-2-V

FILE
STATESVILLE
2001 JAN 25 AM 11
U.S. DISTRICT COURT
W. DIST. OF N.C.

UNITED STATES OF AMERICA)

vs.)

WILLIAM EUGENE BUTNER)
_____)

ORDER

THIS MATTER is before the Court on Defendant's "Motion For Stay Of Execution Of Judgment", filed December 20, 2000, and the Government's "Answer", filed January 11, 2001.

Defendant moves the Court to stay the execution of his sentence pending the disposition of his appeal to the Fourth Circuit Court of Appeals. Defendant was sentenced to six (6) months imprisonment on November 7, 2000 and judgment was entered against him on November 21, 2000. Defendant was released from custody following his conviction and is to self surrender for service of his sentence at a date to be determined by the Bureau of Prisons. Defendant filed a "Notice of Appeal" to the Fourth Circuit on December 1, 2000.

The law for this matter is set forth in Rule 38 of the Federal Rules of Criminal Procedure. According to Rule 38(b), "A sentence of imprisonment shall be stayed if an appeal is taken from the conviction or sentence and the defendant is released pending disposition of appeal pursuant to Rule 9(b) of the Federal Rules of Appellate Procedure." Further, the specific requirements for a stay of imprisonment pending appeal are outlined in 18 U.S.C. §3143. According to §3143(b)(1), the Court must order a defendant detained unless:

- (A) by clear and convincing evidence the person is not likely to flee or pose a danger to the safety of any other person or the community...; and
- (B) the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in-
 - (i) reversal,
 - (ii) an order for a new trial,
 - (iii) a sentence that does not include a term of imprisonment, or
 - (iv) a reduced sentence to a term of imprisonment less than the


total of the time already served plus the expected duration of the appeal process.

Defendant makes three specific arguments in his motion. First, Defendant argues that he is not likely to flee or pose any danger to the community at large. Second, Defendant claims that his sentence is of such short duration that it will likely be served by the time his appeal is heard by the Fourth Circuit. Lastly, Defendant asserts that there are substantial questions of law and fact presented in this case and relies on the issues raised in his "Motion for Judgment of Acquittal", filed May 24, 1999.

Upon careful review of the record and in light of the Government's consent, the Court finds that Defendant has satisfied the requirements outlined in §3143. There is no evidence that Defendant is likely to flee, is a danger to his community, or filed his appeal for the purpose of delay. Thus, the Court grants Defendant's motion and orders a stay of his sentence pending appeal to the Fourth Circuit.

IT IS, THEREFORE, ORDERED that Defendant's "Motion For Stay Of Execution Of Judgment" is hereby **GRANTED**.

THIS the 23^d day of Jan, 2001.


RICHARD L. VOORHEES
UNITED STATES DISTRICT COURT JUDGE

United States District Court
for the
Western District of North Carolina
January 25, 2001

* * MAILING CERTIFICATE OF CLERK * *

Re: 5:98-cr-00215

True and correct copies of the attached were mailed by the clerk to the following:

Thomas R. Ascik, Esq.
United States Attorney
Room 233, U.S. Courthouse
100 Otis Street
Asheville, NC 28801

Edward T. Hinson, Esq.
James, McElroy & Diehl
600 S. College St.
Charlotte, NC 28202

cc:
Judge ()
Magistrate Judge ()
U.S. Marshal ()
Probation ()
U.S. Attorney ()
Atty. for Deft. ()
Defendant ()
Warden ()
Bureau of Prisons ()
Court Reporter ()
Courtroom Deputy ()
Orig-Security ()
Bankruptcy Clerk's Ofc. ()
Other _____ ()

Date: 1/25/01

Frank G. Johns, Clerk

By: Susan M. Johnson

Deputy Clerk